

**STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE**

In re: Oakley M. Frost, M.D.

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Docket Nos. MPC 79-0999  
MPC 85-1099  
MPC 46-0602  
MPC 90-0605

**STIPULATION AND CONSENT ORDER**

NOW COME Oakley M. Frost, M.D., Respondent in the above-captioned matter, and the State of Vermont, by and through Attorney General William H. Sorrell and undersigned Assistant Attorney General James S. Arisman, and agree and stipulate as follows:

1. Respondent Oakley M. Frost, M.D., holds Vermont medical license number 042-0002949, issued by the Board of Medical Practice (hereinafter "the Board") on May 27, 1965.

2. Jurisdiction in the above-referenced matters vests with the Board of Medical Practice pursuant to 26 V.S.A. §§ 1354, 1361 & 1398 and 3 V.S.A. § 814.

**I. Background.**

3. Four matters involving Respondent are currently pending before the Vermont Board of Medical Practice. Each of these involve surgical procedures performed by Respondent.

4. In recent years, Respondent has gradually reduced the scope and complexity of the surgeries he performs. He has referred more complicated or lengthy procedures to

other surgeons and in recent years has limited his surgical practice to more routine outpatient procedures.<sup>1</sup>

5. Respondent holds or formerly held privileges at the following: (a) Southwestern Vermont Medical Center (SVMC); (b) Century Same Day Surgery of Latham, New York; and (c) Seton Health of Troy, New York. Respondent's recent practice at SVMC was limited to providing follow-up to former surgical patients, including monitoring their condition, prescribing and adjusting medications as appropriate, and referring new patients and surgical patients to other physicians. His SVMC designation was "Referring Courtesy Medical Staff, without clinical privileges".

## **II. Agreement of the Parties.**

6. Consistent with the reduction of his surgical practice in recent years, Respondent made the decision to permanently retire from the practice of medicine. He did so on June 20, 2005. In conjunction with his retirement, Respondent now wishes to resolve all matters involving his medical practice that are pending before the Board of Medical Practice by entering into this Stipulation and Consent Order with the Vermont Board. Respondent at all times has cooperated fully with the Board during its investigation and review of open matters.

7. Respondent has not been the subject of disciplinary action by the Board of Medical Practice. No specification of charges has been filed in any of the above-captioned matters that are open before the Board. Respondent enters no admissions or representations

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1. For specific example, Respondent stopped performing carotid endarterectomies and ceased performing vascular surgery without the presence of an assisting surgeon.

here but recognizes the Board's responsibility for the investigation of patient care and for protection of the public health, safety, and welfare. Respondent recognizes, in retiring from the practice of medicine, the importance of achieving finality as to the pending investigative and administrative matters that are related to his Vermont medical license. In this regard, the parties have consulted and agree that this Stipulation and Consent Order provides terms and conditions that are an appropriate basis for final resolution of all matters involving Respondent that are pending before the Vermont Board.

8. Respondent acknowledges that he is voluntarily agreeing to this Stipulation and Consent Order. He agrees and understands that by executing this document he is voluntarily obviating any need for and is waiving any right to be served with a formal Specification of Charges, to challenge the jurisdiction and continuing jurisdiction of the Board in these matters, to be presented with any evidence against him, to cross-examine adverse witnesses, and to offer any evidence of his own at a hearing.

9. Respondent is represented by and at all times has had advice of counsel in reviewing this Stipulation and Consent Order and in communicating with the Board. He is fully satisfied with all representation and counsel.

10. This written agreement is intended by the parties to address Respondent's announced retirement from the practice of medicine. Now, therefore, consistent with his own plans and in exchange for the Board action described in Paragraph 11, below, Respondent affirms here that he has retired, fully and without exception, from the practice of medicine. His decision to do so is final and irrevocable. Respondent agrees that his permanent retirement from the practice of medicine, in Vermont and elsewhere, took place on June 30,

2005. Therefore, he expressly agrees that hereafter he shall not engage in the practice of medicine, whether elsewhere or in Vermont.

### **III. Disposition of Pending Complaints.**

11. In exchange for Respondent's actions and legally binding assurances, as identified in Paragraphs 6 through 10, above, and within this paragraph, the Board agrees that following: (a) Respondent's execution of this Stipulation and Consent Order; (b) his reaffirmation here of his decision and action of retirement from the practice of medicine on June 30, 2005; and (c) his agreement that such action is and shall be final and irrevocable, the Board will administratively close all matters involving Respondent that are currently pending before the Board and take no further action on them, absent non-compliance with the terms and conditions of this document by Respondent. Respondent acknowledges and agrees that after the effective date of this agreement, his Vermont medical license shall be designated as "inactive, per request" and that his Board profile information shall reflect his retirement from the practice of medicine on June 30, 2005. Respondent agrees that after the effective date of this agreement, he shall take no action, regardless of location, inconsistent with his full retirement from the practice of medicine<sup>2</sup> and further that he waives any and all rights he may possess under 26 V.S.A. § 1400 and Part 3 of the Board's Rules, and waives any residual right(s) of action he may possess under these authorities.

2. The parties agree that nothing in this Stipulation and Consent Order shall preclude Respondent from conducting research (which shall not involve any direct involvement in the care of any patient), writing or speaking, or identifying himself in connection with such research, writing, or speaking as "Oakley M. Frost, M.D.".

12. The Board of Medical Practice is unaware at this time of any other complaints, allegations, or matters involving Respondent that might be filed with the Board or brought to the Board's attention. Respondent, however, acknowledges that the Vermont Board of Medical Practice must investigate and may act upon at any time disciplinary action taken in another jurisdiction, a complaint, and/or conduct, notwithstanding Respondent's retirement from the practice of medicine and his execution of this Stipulation and the Order. Respondent understands that the Board is obligated to investigate in the event that new matters or evidence come to the attention of the Board, and, if warranted, the Board could take further action pursuant to law. 26 V.S.A. §§ 1355, 1361. As of the effective date of this Stipulation and Consent Order neither the Board of Medical Practice nor the Office of the Attorney General contemplates any such action with regard to Respondent.

#### **IV. Other Terms.**

13. Respondent agrees to be bound by the terms and conditions of this Stipulation and Consent Order. Respondent agrees that the Board of Medical Practice may enter this agreement as its order and that the Board shall retain jurisdiction to enforce the terms and conditions of this Stipulation and Consent Order. Respondent agrees that failure by him to abide by any of the terms and conditions of this Stipulation and Consent Order, specifically including, but not limited to, Paragraphs 6 through 11, above, may constitute unprofessional conduct under 26 V.S.A. § 1354(25) and could subject Respondent to disciplinary action.

14. The parties agree that this Stipulation and Consent Order shall be a public document, will be made part of Respondent's licensing file, and may be reported to other licensing authorities.

15. This Stipulation and Consent Order is conditioned upon its acceptance by the Vermont Board of Medical Practice. If the Board rejects any part of this document, the entire agreement shall be considered void.

Dated at Montpelier, Vermont, this 1<sup>st</sup> August day of ~~July~~ 2005.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

by:

James S. Arisman  
JAMES S. ARISMAN  
Assistant Attorney General

Dated at Bennington, Vermont, this 28<sup>th</sup> day of July 2005.

Oakley M. Rost  
OAKLEY M. ROST, M.D.  
Respondent

Dated at Springfield, Vermont, this 1<sup>st</sup> day of August 2005.

Stephen D. Ellis  
STEPHEN D. ELLIS, ESQ.  
Counsel for Respondent

FOREGOING, AS TO OAKLEY M. FROST, M.D.  
APPROVED AND ORDERED,  
VERMONT BOARD OF MEDICAL PRACTICE

*Katherine H. Leedy*

*Devin A. King MD*

*John R. Smith MD*

*William H. French MD*

*Robert L. Blalock*

*[Signature]*

*[Signature]*

DATED: 8/3/05

ENTERED AND EFFECTIVE: August 3, 2005

JSA: Stipulation, 7/15/05 FINAL: Oakley M. Frost, M.D., Not Effective Until Approved by Board of Medical Practice.